

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ERIC JAMES WELLINGTON,

Defendant.

CR 15-59-GF-BMM-JTJ

**FINDINGS AND  
RECOMMENDATIONS**

**I. Synopsis**

Defendant Eric James Wellington (Wellington) has been accused of violating the conditions of his supervised release. Wellington admitted one of the two alleged violations. The government met its burden of proof with respect to the alleged violation that Wellington did not admit. Wellington's supervised release should be revoked. Wellington should be placed in custody for 12 months, with 18 months of supervised release to follow. Wellington should serve the first 2 months of supervised release at Connections Corrections in Butte, Montana, or at a similar secure drug treatment facility.

## **II. Status**

Wellington pleaded guilty to being a Felon in Possession of a Firearm on September 21, 2015. (Doc. 8). The Court sentenced Wellington to 24 months of custody, followed by 30 months of supervised release. (Doc. 17). Wellington's current term of supervised release began on August 18, 2017. (Doc. 29 at 1).

### **Petition**

The United States Probation Office filed a Petition on January 29, 2019, requesting that the Court revoke Wellington's supervised release. (Doc. 29). The Petition alleges that Wellington violated the conditions of his supervised release: 1) by committing another crime; and 2) by consuming alcohol. (Doc. 29 at 2).

United States District Judge Brian Morris issued a warrant for Wellington's arrest.

### **Initial appearance**

Wellington appeared before the undersigned for his initial appearance on February 19, 2019. Wellington was represented by counsel. Wellington stated that he had read the petition and that he understood the allegations. Wellington waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

### **Revocation hearing**

The Court conducted a revocation hearing on February 19, 2019, and on

February 26, 2019. Wellington admitted that he had violated the conditions of his supervised release by consuming alcohol. Wellington could not admit or deny that he had committed other crimes as charged in alleged Violation No. 1. The government met its burden of proof with respect to alleged Violation No. 1. The violations are serious and warrant revocation of Wellington's supervised release.

Wellington's violation are Grade B violations. Wellington's criminal history category is V. Wellington's underlying offense is a Class C felony. Wellington could be incarcerated for up to 24 months. He could be ordered to remain on supervised release for up to 30 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 18 to 24 months.

### **III. Analysis**

Wellington's supervised release should be revoked. Wellington should be incarcerated for 12 months, with 18 months of supervised release to follow. Wellington should serve the first 2 months of supervised release at Connections Corrections in Butte, Montana, or at a similar secure drug treatment facility. The supervised release conditions imposed previously should be continued. This sentence is sufficient but not greater than necessary.

### **IV. Conclusion**

The Court informed Wellington that the above sentence would be recommended to Judge Morris. The Court also informed Wellington of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Wellington that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. The Court also explained to Wellington that he had the right to allocute before Judge Morris.

The Court **FINDS:**

That Eric James Wellington violated the conditions of his supervised release by committing other crimes, and by consuming alcohol.

The Court **RECOMMENDS:**

That the District Court revoke Wellington's supervised release and commit Wellington to the custody of the United States Bureau of Prisons for a term of imprisonment of 12 months, with 18 months of supervised release to follow. Wellington should serve the first 2 months of supervised release at Connections Corrections in Butte, Montana, or at a similar secure drug treatment facility.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND  
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which

objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 27th day of February, 2019.



John Johnston  
United States Magistrate Judge